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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(El Dorado)

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THE PEOPLE,

Plaintiff and Respondent,

v.

CLAUDE JEAN HEMER,

Defendant and Appellant.

C089315

(Super. Ct. No. S18CRF0167)

Defendant Claude Jean Hemer pleaded no contest to failing to register as a transient sex offender under Penal Code section 290.011, subdivision (b).<sup>1</sup> The trial court sentenced him to a term of 32 months and imposed a restitution fine of \$300, a parole revocation fine of \$300, a court security assessment of \$40, and a court operating assessment of \$30. After filing a notice of appeal, defendant filed an informal request in the trial court under section 1237.2 to correct erroneously imposed fines and assessments, citing the trial court's failure to determine defendant's ability to pay. The trial court

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

denied the motion, stating it did not have jurisdiction to modify the judgment because defendant had filed a notice of appeal.

Defendant now contends the matter should be remanded to the superior court to exercise its jurisdiction under section 1237.2. The Attorney General agrees, writing that “the trial court erred by failing to determine whether relief was appropriate under section 1237.2. Section 1237.2 vests the trial court with limited jurisdiction to correct the calculation or imposition of fines and fees previously ordered, notwithstanding the filing of a notice of appeal, so long as the calculation or imposition of such fines is the sole issue raised on appeal. Thus, remand is required.”

Section 1237.2 states: “An appeal may not be taken by the defendant from a judgment of conviction on the ground of an error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered until after sentencing, the defendant first makes a motion for correction in the trial court, which may be made informally in writing. The trial court retains jurisdiction after a notice of appeal has been filed to correct any error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs upon the defendant’s request for correction. This section only applies in cases where the erroneous imposition or calculation of fines, penalty assessments, surcharges, fees, or costs are the sole issue on appeal.”

Here, defendant made such a request after filing a notice of appeal. Defendant presented his claim to the trial court in a letter dated June 20, 2019, citing section 1237.2. He asked the trial court to stay or strike all fines and assessments until a determination is made that he has the ability to pay those fines and assessments, citing *People v. Dueñas* (2019) 30 Cal.App.5th 1157. The trial court declined to rule on the request on the merits, stating it did not have jurisdiction to entertain the request because defendant had filed a notice of appeal.

The plain language of section 1237.2 gives the trial court jurisdiction to correct any error in the imposition of fines and assessments upon a defendant's request, even after a notice of appeal has been filed, and makes such a request a prerequisite to any appeal in which the only contention is that the fines or assessments were improper. (*People v. Alexander* (2016) 6 Cal.App.5th 798, 801.) Accordingly, because defendant's sole claim on appeal is that fines and assessments were improperly assessed, the trial court erred in concluding it did not have jurisdiction, and we will remand for the trial court to exercise its jurisdiction by responding to the request.

## DISPOSITION

The matter is remanded to the trial court with instructions to exercise its jurisdiction with respect to defendant's letter dated June 20, 2019.

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MAURO, J.

We concur:

/S/  
ROBIE, Acting P. J.

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HOCH, J.